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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2009-69

13 **KATHLEEN T. REDMOND**

589 North Johnson, Apt. 129

14 El Cajon, California 92020

A C C U S A T I O N

15 Registered Nurse License No. 329854

Respondent.

16
17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 **License History**

23 2. On or about June 30, 1981, the Board issued Registered Nurse License
24 Number 329854 to Kathleen T. Redmond ("Respondent"). The license will expire on April 30,
25 2009, unless renewed.

26 **JURISDICTION**

27 3. Section 2750 of the Business and Professions ("Code") provides, in
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764, in pertinent part, that the expiration of a license shall
4 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
6 subdivision (b), the Board may renew an expired license at any time within eight years after the
7 expiration.

8 5. Code section 118, subdivision (b), provides that the suspension,
9 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
10 proceed with a disciplinary action during the period within which the license may be renewed,
11 restored, reissued or reinstated.

12 **STATUTORY PROVISIONS**

13 6. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or
15 licensed nurse or deny an application for a certificate or license for any of
the following:

16 (a) Unprofessional conduct, which includes, but is not limited
17 to, the following:

18 (4) Denial of licensure, revocation, suspension, restriction, or
19 any other disciplinary action against a health care professional license or
20 certificate by another state or territory of the United States, by any other
government agency, or by another California health care professional
licensing board. A certified copy of the decision or judgment shall be
conclusive evidence of that action.

21 **COST RECOVERY**

22 7. Code section 125.3 provides, in pertinent part, that the Board may request
23 the administrative law judge to direct a licensee found to have committed a violation or
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
25 and enforcement of the case.

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1 CAUSE FOR DISCIPLINE

2 (Out-of-State Discipline)

3 8. Respondent is subject to disciplinary action under Code section 2761,
4 subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent was disciplined
5 by the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and
6 Occupational Affairs, State Board of Nursing ("Pennsylvania Board"). Effective January 7,
7 2008, in the case entitled, *Commonwealth of Pennsylvania, Bureau of Professional and*
8 *Occupational Affairs v. Kathleen T. Redmond, RN, Respondent, File No. 2007-51-04101,*
9 pursuant to the Pennsylvania Board's Findings of Fact, Conclusions of Law, and Discussion, and
10 the Final Adjudication and Order, the Pennsylvania Board suspended Respondent's Nurse
11 License No. RN-242601-L indefinitely and ordered Respondent to return all licensure documents
12 in her possession to the Board Counsel. The circumstances underlying the discipline are that
13 Respondent was determined to be unable to practice nursing with reasonable skills and safety to
14 patients by reason of her physical or mental illness or a condition of physiological or
15 psychological dependence upon drugs or alcohol. A copy of the Pennsylvania Board's Findings
16 of Fact, Conclusions of Law, and Discussion and the Final Adjudication and Order are attached
17 as **Exhibit A**, and are incorporated herein.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 329854 issued
5 to Kathleen T. Redmond;

6 2. Ordering Kathleen T. Redmond to pay the Board the reasonable costs of
7 the investigation and enforcement of this case, pursuant to Code section 125.3; and,

8 3. Taking such other and further action as deemed necessary and proper.
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10 DATED: 9/26/08
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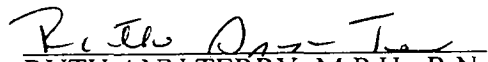
12 
13 RUTH ANN TERRY, M.P.H., R.N.
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant
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EXHIBIT A

COPY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Department of State

2007 DEC -5 AM 8:23

PROHIBITORY

THE STATE BOARD OF NURSING

COMMONWEALTH OF PENNSYLVANIA,
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

v.

KATHLEEN T. REDMOND, RN,
Respondent

FILE NO. 2007-51-04101

DOCKET NO. 0856-51-2007

FINAL ADJUDICATION AND ORDER

BASIL L. MERENDA, COMMISSIONER
BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

MARY E. BOWEN, RN, CRNP, CHAIRPERSON
STATE BOARD OF NURSING

2601 North Third Street
P.O. Box 2649
Harrisburg, PA 17105-2649

TAB

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 21st DAY OF MAY A.D. 2008

1000 D1061

HISTORY

This case comes before the State Board of Nursing (Board) to determine whether the professional nursing license of Kathleen T. Redmond, RN (Respondent) should be revoked, suspended, or otherwise disciplined under the Professional Nursing Law¹ (Act). By notice and order to show cause filed April 25, 2007, the Commonwealth alleged that Respondent was subject to disciplinary action because she was unable to practice nursing with reasonable skill and safety to patients, due to drug use. Although the order to show cause was served on Respondent, Respondent did not file an answer and did not request a hearing.

On September 25, 2007, the Commonwealth filed a motion to deem facts admitted and requested entry of default. Respondent did not file a response to the motion to deem facts admitted. By order dated October 22, 2007, the Board granted this motion, deeming Respondent to have admitted the factual allegations of the order to show cause and closing the record.

The Board² now issues this adjudication and order as a final determination of the charge against Respondent.

¹ Act of May 22, 1951 (P.L. 317, No. 69), *as amended*, 63 P.S. §§ 211 *et seq.*

² Board member Mary E. Bowen, RN, CRNP, recused and has not participated in the deliberation or decision in this matter.

FINDINGS OF FACT

1. Respondent holds a registered nurse license to practice nursing in the Commonwealth of Pennsylvania, license number RN-242601-L. (Board records; order to show cause at ¶ 1).
2. Respondent's license is active through April 30, 2008, and may be renewed thereafter upon the filing of appropriate documentation and payment of the necessary fees. (Board records; order to show cause at ¶ 2).
3. At all times pertinent to this matter, Respondent held a license to practice as a registered nurse in the Commonwealth of Pennsylvania. (Board records; order to show cause at ¶ 4).
4. Respondent's last known address on file with the Board is 1610 Mirage Court, El Cajon, CA 92019. (Board records; order to show cause at ¶ 3).
5. Respondent currently resides at 589 North Johnson Avenue, Apt. 129, El Cajon, CA 92020. (Order to show cause at ¶ 3).
6. On December 4, 2006, Respondent submitted to a mental and physical examination by Robert M. Wettstein, MD, as directed by the October 25, 2005, order of the Board's probable cause screening committee.³ (Order to show cause at ¶¶ 5-6).
7. Dr. Wettstein opined with reasonable psychiatric certainty that Respondent suffers with cocaine dependence disorder, alcohol dependence disorder, marijuana abuse disorder and recurrent major depressive disorder, all of which are in reported remission and that Respondent is not able to practice professional nursing with reasonable skill and safety to patients unless she participates in a structured monitoring and treatment program for three years. (Order to show cause at ¶ 7).

³ The committee members were Nathan Hershey, Dennis P. McManus and Mary E. Bowen, RN, CRNP. Mr. Hershey resigned and Mr. McManus' term on the Board expired prior to the filing of the order to show cause. Ms. Bowen recused and did not participate in the deliberation or decision in this matter.

8. Respondent suffers with cocaine dependence disorder, alcohol dependence disorder, marijuana abuse disorder and recurrent major depressive disorder, all of which are in reported remission. (Order to show cause at ¶ 8).

9. Respondent is not able to practice professional nursing with reasonable skill and safety to patients unless she is monitored by an appropriate state entity such as the Professional Health Monitoring Program of the Bureau of Professional and Occupational Affairs. (Order to show cause at ¶ 9).

10. The order to show cause was mailed to Respondent at 589 North Johnson Avenue, Apt. 129, El Cajon, CA 92020 by certified mail, return receipt requested, and by first-class mail, postage pre-paid, on April 26, 2007. (See, certificate of service of order to show cause, filed April 25, 2007; motion to deem facts admitted at ¶¶ 2-3).

11. Respondent received the certified, return receipt requested, mailing of the order to show cause on May 1, 2007, as shown by Respondent's signature on postal form 3811. (See, motion to deem facts admitted at ¶¶ 4-5 and attached exhibit 3).

12. The first-class mailing of the order to show cause to Respondent at 589 North Johnson Avenue, Apt. 129, El Cajon, CA 92020 was not returned by the postal authorities. (Motion to deem facts admitted at ¶ 6).

13. The Commonwealth served the motion to deem facts admitted upon Respondent by sending it via first-class mail to Respondent at 589 North Johnson Avenue, Apt. 129, El Cajon, CA 92020 on September 25, 2007. (See, certificate of service of motion to deem facts admitted, filed September 25, 2007).

14. The order granting the motion to deem facts admitted was served upon Respondent by sending it via first class mail to Respondent at 589 North Johnson Avenue, Apt. 129, El Cajon,

CA 92020 on October 22, 2007. (*See*, order granting motion to enter default and deem facts admitted, issued October 22, 2007).

15. Respondent did not answer the order to show cause and did not respond to the motion to deem facts admitted. (*See*, docket entries).

16. Respondent has not requested a hearing in this matter. (*See*, docket entries).

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this case. (Findings of Fact Nos. 1-5).
2. Respondent had adequate notice of the charges against her and was given an opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa.C.S. § 504. (Findings of Fact Nos. 1-5, 10-16).
3. Respondent is subject to discipline under section 14(a)(2) of the Act, 63 P.S. § 224(a)(5), because she is unable to practice nursing with reasonable skill and safety to patients by reason of physical or mental illness or condition or physiological or psychological dependence upon drugs or alcohol. (Findings of Fact Nos. 1-9).

DISCUSSION

On April 25, 2007, the Commonwealth issued a notice and ordered Respondent to show cause why the Board should not take disciplinary action against her. The Commonwealth served the order to show cause upon Respondent by certified mail, return receipt requested, at the address where the Commonwealth believed Respondent to be residing, though it was not Respondent's last known address on file with the Board. Respondent signed for receipt of the certified mailing. Respondent was properly served with the order to show cause. Respondent had adequate notice of the allegations, received service, and had an opportunity to be heard. *Celane v. Commonwealth, Insurance Commissioner*, 415 A.2d 130 (Pa. Cmwlth. 1980).

The order to show cause directed Respondent to file an answer within 30 days. However, Respondent did not file an answer and did not request a hearing. The General Rules of Administrative Practice and Procedure provide, in pertinent part, that:

A person upon whom an order to show cause has been served under § 35.14 (relating to orders to show cause) shall, if directed to do so, respond to the same by filing within the time specified in the order an answer in writing. The answer shall be drawn so as specifically to admit or deny the allegations or charges which may be made in the order, set forth the facts upon which respondent relies and state concisely the matters of law relied upon. ... **A respondent failing to file an answer within the time allowed shall be deemed in default, and relevant facts stated in the order to show cause may be deemed admitted.**

1 Pa. Code § 35.37 (relating to answer to order to show cause) (emphasis supplied).

The Commonwealth filed a motion to deem facts admitted on September 25, 2007. Respondent did not respond to the motion, and the Board properly granted the Commonwealth's motion to deem facts admitted. The Board deems Respondent to have admitted the allegations of the order to show cause.

The Commonwealth charged that Respondent was unable to practice nursing with

reasonable skill and safety to patients due to her drug and alcohol use and her mental illness and therefore was subject to disciplinary action under section 14(a)(2)⁴ of the Act.

Respondent submitted to a mental and physical examination as ordered by the Board's probable cause screening committee. The physician who examined Respondent opined that Respondent suffers from cocaine dependence disorder, alcohol dependence disorder, marijuana abuse disorder and recurrent depressive disorder and is not able to practice professional nursing with reasonable skill and safety to patients unless she participates in a structured substance abuse monitoring and treatment program. The Board accepts this opinion and concludes that Respondent is subject to disciplinary action under section 14(a)(2) of the Act.

The Commonwealth has met its burden of proof, and the Board must determine an appropriate sanction. Because Respondent is subject to disciplinary action under section 14(a)(2) of the Act, the Board may suspend or revoke her license as provided in section 14(b)⁵ of the Act.

⁴ Section 14. Refusal, suspension or revocation of licenses.

(a) The Board may refuse, suspend or revoke any license in any case where the Board shall find that —

* * *

(2) The licensee is unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, so long as such dependence shall continue. . . .

63 P.S. § 244(a)(2).

⁵ Section 14. Refusal, suspension or revocation of licenses.

(b) When the Board finds that the license of any nurse or dietitian-nutritionist may be refused, revoked or suspended under the terms of subsection (a), the Board may:

* * *

- (2) Administer a public reprimand.
- (3) Revoke, suspend, limit or otherwise restrict a license as determined by the Board.
- (4) Require a licensee to submit to the care, counseling or treatment of a physician or a psychologist designated by the Board.
- (5) Suspend enforcement of its finding thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

* * *

63 P.S. § 224(b).

Additionally, the Board may impose a civil penalty under section 13(b) of the Act, 63 P.S. § 223(b). In determining a sanction, the Board considers the seriousness of the offense and any mitigating evidence. Because Respondent did not file an answer and did not request a hearing, the Board has no mitigating evidence to consider.

A nurse who cannot practice with reasonable skill and safety to patients presents an extremely serious risk to patients. In the absence of any mitigating evidence, such as participation in a treatment program, the Board can only protect the public by indefinitely suspending Respondent's license to practice. Respondent will be permitted to petition for the reinstatement of her license when she has obtained a mental and physical evaluation from a Board-approved provider and when she can demonstrate, at a hearing, that she can resume a competent practice of professional nursing with reasonable skill and safety to patients. The Board concludes that the additional imposition of a civil penalty is not required in order to deter Respondent and others from committing similar violations in the future.

Wherefore, the Board enters the following order.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs

v.

Kathleen T. Redmond, RN,
Respondent

:
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:
:
:
:
:

File No. 2007-51-04101

Docket No. 0856-51-2007

FINAL ORDER

AND NOW, this 54 day of December, 2007, having duly convened and considered the entire record of the proceedings, and based upon the foregoing Findings of Fact, Conclusions of Law and Discussion, the State Board of Nursing hereby **suspends indefinitely** the license to practice professional nursing of Respondent, Kathleen T. Redmond, RN, license number RN-242601-L. If she has not already done so, Respondent shall return all licensure documents in her possession to Board Counsel, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649, on or before the effective date of this order.

At any time after the effective date of this order, Respondent may petition for reinstatement. In order to obtain reinstatement, Respondent prove at a formal hearing before the Board or its designee that Respondent is fit and competent to practice nursing with reasonable skill and safety to patients and has completed at least three years of rehabilitation and continuous sustained recovery. Documentation of such recovery shall include, but is not limited to:

- (a) An evaluation and assessment from a treatment provider approved by the Professional Health Monitoring Program indicating that Respondent is fit to practice safely as a nurse and indicating any conditions for monitoring by the Board;
- (b) Periodic and random drug and alcohol screening indicating the lack of illicit

substances, the last screen to be completed no more than 30 days prior to the petition for reinstatement;

(c) Records of continued counseling;

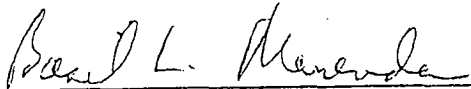
(d) Support group attendance at a frequency of at least two meetings per week;

(e) A current Criminal History Record Information (a/k/a "Criminal Record Check") from the Pennsylvania State Police, compiled no more than three months prior to the petition for reinstatement; and

(f) A signed verification that Respondent has not practiced nursing since the suspension of her license.

This order shall be effective January 7, 2008, 30 days after the date of mailing indicated below.

**BUREAU OF PROFESSIONAL &
OCCUPATIONAL AFFAIRS**


Basil L. Merenda, Commissioner

Respondent's addresses:

Commonwealth's attorney:

Board counsel:

Date of mailing:

STATE BOARD OF NURSING


Mary E. Bowen, RN, CRNP, Chairperson

Kathleen T. Redmond, RN
1610 Mirage Court
El Cajon, CA 92019

Kathleen T. Redmond, RN
589 North Johnson Avenue, Apt. 129
El Cajon, CA 92020

Alvina R. Forthner, Esquire

Thomas A. Blackburn, Esquire

Nov 5, 2007

Notice

The attached Adjudication and Order represents the final agency decisions in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court in accordance with the Pennsylvania Rules of Appellate Procedure. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such appeals is:

Board Counsel
P.O. Box 2649
Harrisburg, PA 17105-2649

The name of the individual Board Counsel is identified on the Order page of the Adjudication and Order.